

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

APRIL DAWN CARVER,  
Petitioner,

VS.

W. ELAINE CHAPMAN, Warden,  
FMC-Fort Worth,  
Respondent.

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CIVIL ACTION NO.4:08-CV-571-Y

ORDER ADOPTING  
MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner April Dawn Carver under 28 U.S.C. § 2241, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on May 21, 2009; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on June 2, 2009.

The Court, after **de novo** review, concludes that Carver's objections must be overruled, that the Respondent's motion to dismiss must be granted, and the petition for writ of habeas corpus under 28 U.S.C. § 2241 should be dismissed for lack of standing and ripeness, for the reasons stated in the magistrate judge's findings and conclusions at pages 4-5, and for the reasons stated in the motion to dismiss at pages 5-8.<sup>1</sup>

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<sup>1</sup>See generally *Torres v. Chapman*, No.4:08-CV-587-A, 2008 WL 5024861, at \*3-4 (N.D.Tex. Nov. 20, 2008)(where another judge in this district found that an inmate challenge to eligibility under 18 U.S.C. 3621(e)(2)(b) was not ripe:

The court cannot now make a determination whether Torres would be eligible to participate in the RDAP, much less can the court make a determination that she will be entitled to a sentence reduction based on the successful completion of the program. Whatever rulings the court might make as to plaintiff's entitlement to participate in

The Court also concludes, for the reasons sated in the motion to dismiss at pages 1-2, that Warden Elaine Chapman is the only proper respondent in this action, and that FMC-Carswell and the Bureau of Prisons must be dismissed.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Respondents' motion to dismiss (docket no. 9) is GRANTED.

April Dawn Carver's petition for writ of habeas corpus under 28 U.S.C. § 2241 is DISMISSED WITHOUT PREJUDICE on the basis of lack of standing and lack of ripeness; but respondents FMC-Carswell and the Bureau of Prisons are DISMISSED WITH PREJUDICE.

SIGNED June 11, 2009.

  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE

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the program or to an early release based on participation would be purely hypothetical, resting upon "contingent future events that may not occur as anticipated, or indeed may not occur at all." *Texas v. United States*, 523 U.S. 296, 300 (1998)(internal quotation marks omitted)).